

### REMARKS

Claims 1-22 were examined by the Office, and in the Office Action of September 15, 2009 all claims are rejected. With this response, claims 1, 2, 8, 12, 17 and 21-22 are amended. All amendments are fully supported by the specification as originally filed. Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

#### **Claim Rejections Under § 101**

In section 6, on page 2 of the Office Action, claims 8-11 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Office asserts that claim 8 is directed to “a graphical user interface” which is software per se. However, applicant respectfully submits that regardless of whether a graphical user interface as recited in claim 8 is software per se, claim 8 specifically recites “a graphical user interface of an electronic device.” Accordingly, claim 8 is tied to a physical article, i.e. an electronic device, and therefore for at least this reason is statutory. Claims 9-11 depending from claim 8 are also statutory due to their incorporation of the limitations of claim 8.

#### **Claim Rejections Under § 112**

In section 9, on page 3 of the Office Action, claims 1-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Office asserts that claims 1, 8, 12, 17 and 21-22 are unclear because the phrases “the first display area” and “the third display area” lack antecedent basis. Claims 1, 8, 12, 17 and 21-22 are amended to recite “a first display area, a second display area and a third display area.” Therefore, applicant respectfully submits that the limitations of claims 1, 8, 12, 17 and 21-22 have proper antecedent basis.

The Office further asserts that the terms “substantially adjacent,” “outermost display area,” “substantially next to each other,” “substantially perpendicular” and “substantially equivalent” are unclear. The independent claims are amended to remove the term “outermost display area,” in order to clarify the limitations of the claims. With respect to the phrases including the term “substantially,” the term substantially would be understood by one of skill

in the art in view of the specification, and therefore does not render the claims indefinite. See MPEP § 2173.05(b).

The Office also asserts that it is unclear what “the first direction” and “the second direction” mean. Applicant respectfully submits that it is clear from the language of the claims when viewed in light of the drawings and specification what is meant by “the first direction” and “the second direction.” Accordingly, applicant respectfully submits that it is unnecessary to further amend the limitations of the claims in order to clarify these limitations.

### **Claim Rejections Under § 103**

In section 14, on page 3 of the Office Action, claims 1-5, 7-15 and 17-22 are rejected under 35 U.S.C. § 103(a) as unpatentable over Driske (U.S. Patent No. 6,239,803) in view of Smith et al. (U.S. Patent No. 5,923,327). Applicant respectfully submits that claim 1 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 1. The cited references, alone or in combination, at least fail to disclose or suggest displaying a first identification part of a first function element on a first display area and a first identification part of a second function element on a third display area, and that a second identification part of the first function element and a second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in a second direction, and substantially equivalent to an amount of space occupied by the first identification part of the second function element in the second direction, as recited in claim 1. For at least these reasons, claim 1 is not disclosed or suggested by the cited references.

As an initial matter, applicant respectfully notes that the Office has not identified which portions of Figure 1A of Driskell the Office specifically asserts to correspond to the three display areas, i.e. the first, second and third display areas as recited in amended claim 1. Applicant respectfully submits that it appears that the Office is asserting that icon A is a display area, Label #1 is a display area, icon D is a display area, and Label #7 is another display area. Accordingly, for the purposes of this response, this will be the interpretation used by the applicant in addressing the Office’s rejections. If the Office has used another

interpretation of Driskell, then the Office is invited to clarify the Office's interpretation by specifically identifying the asserted display areas in Figure 1A of Driskell.

In addition, applicant respectfully notes that the Office appears to switch back-and-forth between referring to Label #7 and Label #2 as the second function element recited in claim 1. Applicant respectfully submits that it is improper to refer to clearly distinct portions of Figure 1A of Driskell as corresponding to a single element of claim 1. The second function element as recited in claim 1 is a distinct element of claim 1, and by switching back-and-forth between Label #7 and Label #2 the Office applies characteristics of each label that may correspond to the second function element piecemeal and fails to show that Driskell discloses or suggests a corresponding second function element, as recited in claim 1. Despite these inconsistencies presented by the Office, applicant will still address the rejection of claim 1 with respect to the arguments presented by the Office.

The Office acknowledges on page 4 of the Office Action that Driskell does not teach that the second function element has an identification part, but asserts that it would be obvious to add an identification part/image/icon to the outermost portion of Label #2. However, if the identification part/image/icon is added to the outermost portion of Label #2, the identification part would not be on the third display area, as required by claim 1. Claim 1 recites that the first identification part, i.e. the part that comprises an image, of the second function element is on the third display area. The Office specifically acknowledges the deficiencies even in the alleged modified teachings of Driskell on page 5 of the Office Action, and relies upon Smith to show the first identification part of the second function element on the third display area.

However, Smith cannot show a first identification part of a second function element in a third display area, as recited in claim 1, because Smith fails to disclose or suggest three display areas as required by claim 1. The Office asserts that Smith teaches one display area corresponding to an icon, and another display area corresponding to a telephone number as shown in Figure 13A. If the icon is asserted to be one display area, and the telephone number is a second display area, then Smith fails to disclose or suggest a third display area adjacent to the first and second display areas in the same direction. Since Smith fails to disclose or suggest a third display area, it necessarily follows that Smith cannot be relied upon to modify Driskell as asserted by the Office to show the first identification part of the second function element in the third display area, as recited in claim 1. Furthermore, even if Smith can be

asserted to include a third display area, which applicant does not admit, the proposed modification of Driskell in view of Smith would change the principle of operation of Driskell. The modification to Driskell asserted by the Office would place the icon for Label #2 above or below icon D for Label #7. It is clear that this would require significant rearrangement of the display in Driskell, and thereby change the principle of operation of Driskell. Accordingly, applicant respectfully submits that it would not be obvious to modify Driskell with the teachings of Smith even if Smith showed a third display area, which as set forth above, Smith fails to do.

In addition, claim 1 is amended to clarify that the second identification part of each function element is displayed in the second display area between the first and third display areas. The Office asserts that Label #1 and Label #2 are displayed on a display area between outermost display areas. However, claim 1 further requires that a first identification part of the second function element is displayed on the third display area. Therefore, even if an identification part is added to Label #2, the identification part would be below icon A, and Label #1 and Label #2 would not be positioned in a second display area located between a first and third display area, as recited in claim 1, because there would be no separate display area that contains an image for Label #2.

Furthermore, it is asserted by the Office that Driskell does not teach the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction, but that it would have been an obvious matter of design choice to a skilled artisan at the time the invention was made to use the method of displaying the second identification part (as disclosed by Driskell) such that the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in the second direction, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Applicant respectfully disagrees with this assertion.

Making such a modification to the invention of Driskell would not be obvious, nor would it be an advantageous or logical modification to make. As can be seen in each of the

embodiments shown in Figure 1A, as well as Figure 1C, of Driskell, each page comprising list items also comprises a central area termed “function areas” (Driskell, column 11, lines 61-62). The function area in the center is in contact with each of the items, regardless of the number of items.

Claim 1 recites that the second identification parts of the first and second function elements are aligned next to each other, such that the second identification parts in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in a second direction, and substantially equivalent to an amount of space occupied by the first identification part of the second function element. It can be inferred from this feature of the claim that the first identification part of the first function element occupies an amount of space substantially equivalent to an amount of space occupied by the first identification part of the second function element.

Because of the central function area used in Driskell, it would be impossible to make such a modification. Using “Label #1” and “Label #2” in Figure 1A as an example, even if each had a corresponding image and all of the text and images could be displayed on three displays, it still would not result in the images occupying an equivalent amount of space. The central area would inherently occupy some of the space that would otherwise be used by the image adjacent to the central area, as would the textual part of the opposing item, as each of the items in Driskell is in contact with the central area. This would become an even greater problem in the event that when listing more than four items, which is the intent in Driskell, as it is 6-16 items are the ideal number for on one display (Driskell, column 4, lines 10-15). For example, there is no obvious way that Label #51 and Label #52 could have their design modified as suggested by the Office, in a manner that conforms to the claimed method and still has each Label in contact with the central area. Therefore, at least for the reasons discussed above, claim 1 is not disclosed or suggested by the cited references.

Independent claims 8, 12, 17 and 21-22 contain limitation similar to claim 1, and therefore are not disclosed or suggested by the cited references for at least the same reasons as claim 1.

The dependent claims rejected above, all ultimately depend from an independent claim. Therefore, the dependent claims are not disclosed or suggested by the cited references at least in view of their dependencies.

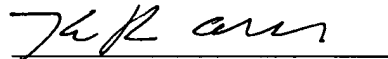
In section 15, on page 8 of the Office Action, claims 6 and 16 are rejected under 35 U.S.C. § 103(a) as unpatentable over Driskell in view of Smith, and in further view of Twerdahl et al. (U.S. Appl. Publ. No. 2004/0221243). Claims 6 and 16 ultimately depend from and independent claim, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies.

#### Conclusion

For at least the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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